

STATE OF NEW YORK
STATE TAX COMMISSION

Lenning, Henry F.
Pers. Income -
Art 22

(1971)

In the Matter of the Petition

of
HENRY F. LENNING

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1965

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Martha Funaro , being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 25th day of August , 1971, she served the within
Notice of Decision (or Determination) by (certified) mail upon Henry F.

Lenning (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Henry F. Lenning
c/o Max Trager
55 West 42nd Street
New York, New York
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) petitioner herein and that the address set forth on said wrapper is the last
known address of the (representative of the) petitioner.

Sworn to before me this

25th day of August , 1971.

Linda Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition
:
of
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HENRY F. LENNING
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For a Redetermination of a Deficiency or
a Refund of Personal Income
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Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1965
:

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Martha Funaro , being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 25th day of August , 1971, she served the within Notice of Decision (or Determination) by (certified) mail upon Max Trager (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Max Trager
55 West 42nd Street
New York, New York

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) petitioner herein and that the address set forth on said wrapper is the last known address of the (representative of the) petitioner.

Sworn to before me this

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Linda Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
HENRY F. LENNING	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Year 1965.	:	

Petitioner, Henry F. Lenning, has filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1965. File No. 33164845). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York on December 16, 1970 at 10:45 A.M. Petitioner appeared by Max Trager, C.P.A. The Income Tax Bureau appeared by Edward H. Best, Esq. (Alexander Weiss, Esq. of Counsel).

FINDINGS OF FACT

1. Petitioner, Henry F. Lenning, filed a New York State Income Tax Nonresident Return for the year 1965.

2. On November 27, 1967 the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Henry F. Lenning, imposing additional personal income tax for the year 1965 upon the grounds that he was a statutory resident for said year since he maintained a permanent place of abode and spent more than 183 days within New York State. It also disallowed \$652.51 claimed for research and professional expenses which adjustment is not being contested by the petitioner. In accordance with the aforesaid Statement of Audit Changes it issued a Notice of Deficiency in the sum of \$2,445.15.

3. During the year 1965 petitioner, Henry F. Lenning, leased an apartment at 345 East 57th Street in New York City. He also owned two homes in Killingsworth, Connecticut, one of which he leased out.

He lived in the apartment in New York City from 1942 to 1948. From 1948 to 1955, he lived in Switzerland where he studied to obtain his P.H.D. During the years he was living in Switzerland he sublet his apartment in New York City. Upon his return to the United States in 1955, he acquired the aforesaid Connecticut property. Between 1955 and 1965 he occupied both the apartment in New York City and the house in Connecticut. Killingsworth, Connecticut is located approximately three hours away by automobile from New York City. He was registered to vote in Connecticut. His automobile was registered in Connecticut. His checking account was maintained in a bank in New York City.

4. During the year 1965 petitioner, Henry F. Lenning, was a professor in the Social Science Department of the Fashion Institute of Technology located in New York City. He had been a professor at the Institute since 1960. During the 1965 spring term he taught at the Institute three days a week and during the fall term, four days a week.

5. Petitioner, Henry F. Lenning, conceded that he spent at least 140 days in New York State during the year 1965. He failed to prove by documentary or other substantial evidence that he spent less than 184 days in New York State during said year.

CONCLUSIONS OF LAW

A. That since during the year 1965 petitioner, Henry F. Lenning, maintained a permanent place of abode in New York State and spent more than 183 days of the year in New York State, therefore, he was a resident individual during said year in accordance with the meaning and intent of section 605(a)(2) of the Tax Law.


B. That the petition of Henry F. Lenning is denied and the Notice of Deficiency issued November 27, 1967 is sustained.

DATED: Albany, New York

August 25, 1971.

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER